

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
AT DEHRADUN**

**CLAIM PETITION NO. 46/SB/2024**

Sri Mool Chand Gupta, aged about 55 years, s/o Sri Ram Niwas Gupta, presently working and posted as Officiating Superintending Engineer in the office of Engineer-in-chief and Head of the Department, Public Works Department, Uttarakhand, Dehradun.

**.....Petitioner**

**vs.**

1. State of Uttarakhand through Secretary, Public Works Department, Govt. of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Engineer-in-Chief and Head of the Department, Public Works Department, Uttarakhand, Yamuna Colony, Dehradun.

**.....Respondents**

Present: Sri L.K.Maithani, Advocate, for the petitioner.  
Sri V.P. Devrani, A.P.O. for the Respondents.(online)

**JUDGMENT**

**DATED: JUNE 03, 2024**

**Justice U.C.Dhyani (Oral)**

By means of present claim petition, petitioner seeks the following reliefs:

“a) To quash the impugned order dated 22.11.2022 and issue an order or direction to the respondents to grant time to the petitioner to place his representation against the down graded entry of the year 2022-23.

b) To issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

c) To award the cost of the petition to the petitioner.”

2. Petitioner has filed affidavit in support of the claim petition.
3. Relevant documents have also been filed along with the claim petition.
4. Order dated 20.11.2023, issued by Public Works Department, Uttarakhand (Annexure: A-1) is in the teeth of present claim petition.
5. Ld. Counsel for the petitioner submitted that instead of giving time to the petitioner to file representation beyond 45 days, as stipulated in *proviso* to Rule 4(3) the Uttarakhand Government Servants (Disposal of Representation against Adverse, Fair/Satisfactory, Good, Very Good, Excellent Annual Confidential Reports and Allied Matters) Rules, 2015 (for short, Rules of 2015), the respondent department has rejected the application of the petitioner by saying that the A.C.Rs. have rightly been given to the petitioner. Application dated 09.05.2023, which has been addressed to the Principal Secretary, P.W.D. ( Annexure: A-3), shows that the petitioner prayed for further time to file representation against down-graded entries, but the respondent department, instead of considering whether petitioner should be given more time to file representation against the down-graded entries or not, dismissed the application of the petitioner *vide* order dated 20.11.2023 (Annexure: A-1) by saying that there is no justification for making amendment in the A.C.Rs. of the petitioner.

6. Rule 4(3) of the Rules of 2015 reads as below:

“4(3) If the government servants want to represent against the wholly or partly adverse or critical Fair/Satisfactory, Good, Very Good report under sub rule (1), then he within a period of 45 days from the date of communication of such report, may represent in writing directly or through proper channel to the authority one rank above the accepting authority hereinafter referred to as the competent authority and if there is no competent authority, then to the accepting authority.

Provided that if the competent authority or the accepting authority, as the case may be, is satisfied that the Government

Servant concerned had sufficient cause for not submitting the representation within the said period, he may allow a further period of 45 days for submission of such representation.”

*[Emphasis supplied]*

7. The documents brought on record thus suggest that instead of considering whether the petitioner should be given more time, beyond 45 days, to make representation against the down-graded entries, the application was dismissed on the ground that A.C.Rs. were rightly given to the petitioner.

8. The Rules suggest that the respondent department should have considered whether more time should be given to the applicant to move representation under *proviso* to Rule 4(3) of the Rules of 2015 or not, instead of rejecting the same outright on the ground that the A.C.Rs. were rightly given to the petitioner. This is contrary to the scheme of law and calls for interference.

9. Since the facts of the case are not in dispute, therefore, no useful purpose would be served by keeping the claim petition pending.

10. The claim petition is disposed of, at the admission stage, with the consent of Ld. counsel for the parties, by directing Respondent No.1 to consider whether the petitioner should be given more time, beyond 45 days, for making representation against his down-graded entries, as is envisaged in *proviso* to Rule 4(3) of the Rules of 2015 or not. Respondent No.1 is directed to pass a speaking order on the same, as quickly as possible and without unreasonable delay, in accordance with law.

**(JUSTICE U.C.DHYANI)**  
CHAIRMAN

DATE: JUNE 03, 2024.  
DEHRADUN

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